

U.S. Patent Appln. No. 10/660,067
Amendment
Response to Office Action of Dec. 13, 2004

Docket No. 7001-72

AMENDMENTS TO THE DRAWINGS

The attached replacement sheet includes an amendment to Fig. 1 to show the three cross-supports 24 described in the specification. No new matter is added.

Attachments: One replacement sheet

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REMARKS

The foregoing amendments and these remarks are in response to the Office Action dated December 13, 2004. This amendment is filed with a request for extension of time of two months, and the appropriate fee therefor.

At the time of the Office Action, claims 1-63 were pending in the application. In the Office Action, claims 2, 4, 5 and 21-63 were rejected under 35 U.S.C. §112. Claims 1, 2, 6, 7, 16, 17, 19, 22, 23, 27, 28, 37, 38, 40, 43, 44, 53, 54, 56, 57, 60 and 61 were rejected under 35 U.S.C. §102(b). Claims 3-5, 8-15, 18, 20, 21, 24-26, 29-36, 39, 41, 42, 45-52, 55 58, 59, 62 and 63 were rejected under 35 U.S.C. §103(a). New claims 64-78 are filed herein to replace previous claims 1-63.

I. Information Disclosure Statement

The information disclosure statement filed January 5, 2004 was alleged to fail to comply with 37 C.F.R. §1.98(a)(2) for failing to include a legible complete copy of each foreign patent. A complete copy of CN 1313231 is supplied herewith, together with the English-language abstract thereof, which satisfies the requirement for a brief explanation of relevance for foreign language documents.

II. Rejections under 35 U.S.C. §112

Claim 5 was rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Specifically, the description of the top support member appeared to be incorrect with respect to Fig. 1. Fig. 1 is amended herein to clearly show the three cross-supports attached to the top plate (which is formed of several boards in the illustrated embodiment). The claim is now believed to be clear and enabled, and to be in accordance with 35 U.S.C. §112, first paragraph.

Claims 2, 4, 5 and 21-63 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for the reasons listed in the Office

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Action. It is believed that all the rejections have been fully addressed in the new claims, and that the new claims are in compliance with section 112.

With regard to the rejection that an oval cannot also be described as hexagon, diamond or kite shaped, the recitation of "hexagon" has been removed from the claims. The elongated hexagon, diamond and kite shapes are all generally oval in accordance with the definition in the specification. As a patentee is permitted to be their own lexicographer, and as it is believed that the definition in the specification is clear, this rejection is believed moot. Withdrawal of the rejections is thus respectfully requested.

III. Rejections on Art

Claims 1, 2, 6, 7, 16, 17, 19, 22, 23, 27, 28, 37, 38, 40, 43, 44, 53, 54, 56, 57, 60 and 61 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,191,843 to Ausavich et al. (hereafter "Ausavich"). Claims 3-5, 24, 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ausavich in view of British Patent No. 832,844 to Holzwerke Zapfendorf (hereafter "Holzwerke"). Claims 8-15, 18, 29-36, 39, 45-52 and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ausavich. Claims 20, 21, 41, 42, 58, 59, 62 and 63 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ausavich in view of U.S. Patent No. 5,351,628 to Beezer et al. (hereafter "Beezer").

Prior to addressing the rejections on art, a brief review of new claim 64 is believed appropriate. This claim requires that a plurality of support blocks are positioned between the bottom surface of the top support member and the top surface of the bottom support member. The support blocks are formed from a composite material comprising at least one cellular material having particle sizes between about 0.05mm and about 4mm and at least one thermoplastic material, the concentration of the cellular material in the composite comprising between about 40 percent and about 60 percent such that the composite material is nailable. The blocks are spaced apart a sufficient distance to receive a lifting member therebetween. Additionally, the support blocks each have a generally oval cross-section.

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Notably, the composite support blocks of the cited prior art references all require that hollow portions are provided to receive bolts and other fastening means. In particular, Holzwerke states on page 2, lines 89-95 "[o]wing to the high mechanical resistance of the wood press composition the latter can be worked only with difficulty with the normal wood-working tools. Therefore it is advisable to provide recesses, necessary for the securing means, from the very beginning." Holzwerke uses a high concentration of wood shavings, ranging from 75% to 95%, but these shavings are of a relatively large size, with thicknesses ranging from 1 to 5cm. The resin and the shavings together form an extremely hard composite. Ausavich uses wood only as a filler, thus employing a high concentration of the thermoplastic polyolefin and also requires that "substantially hollow cylindrical segments" are included, with a central vertical section provided for a bolt. Beezer teaches the use of a generally hollow molded support block. As can clearly be seen from the figures of the present application, the support blocks of the present application are generally solid, and the specific size of the cellular particles and the percentage of the cellular particles in the composite mixture allows the blocks to be nailable. This removes the need to provide openings to receive bolts or other fastening means, ensuring that the support blocks are easy and inexpensive to produce, and can be easily and inexpensively fixed in place using nails, while still providing the advantages of using generally oval support blocks.

Thus, even if the prior art references were combined, a person of ordinary skill in the art would not arrive at a pallet having all of the limitations of claim 64, because none of the references teaches the use of a solid, nailable composite block having cellular particles of the size and percentage ranges claimed. For the foregoing reasons, claims 64-78 are believed patentable, and in condition for allowance.

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IV. Conclusion

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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